

Before the  
Federal Communications Commission  
Washington, DC 20554

2001 AUG 10 P 1:40

In the Matter of )

Mercer County Area Vocational - Technical School )  
Mercer, Pennsylvania )

File No. SLD-152018 RECEIVED

Federal-State Joint Board on )  
Universal Service )

CC Docket No. 96-45

Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

CC Docket No. 97-21

**ORDER ON RECONSIDERATION AND CLARIFICATION****Adopted: August 6, 2001****Released: August 7, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. In this Order, the Accounting Policy Division (Division) reconsiders and clarifies on its own motion its Order released July 23, 2001 (*Remand Order*), which *inter alia* granted the Request for Review filed by Mercer County Area Vocational-Technical School (Mercer County), Mercer, Pennsylvania.<sup>1</sup> In the *Remand Order*, we remanded Mercer County's service change request along with the service- and Service Provider Identification Number (SPIN)-change requests of several other parties to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) for reconsideration pursuant to the Commission's revised standards for such change requests.<sup>2</sup>

2. In doing so, we noted that in one of the cases addressed by the *Remand Order*, SLD had denied the applicant's request because "the appeal the applicant had filed was not filed in a timely manner with SLD."<sup>3</sup> In this Order, we clarify that our decision to remand this particular service change request, which was filed by Mercer County, does not reflect a determination on

<sup>1</sup> Letter from Rick Barber, Mercer County Career Center, to Federal Communications Commission, filed June 1, 2000 (Request for Review); Requests for Review of the Decision of the Universal Service Administrator by Lac Du Flambeau, Lee County School District, Mercer County Career Center, and Kingsport City Schools, CC Docket No. 96-45, Order, DA 01-1724 (rel. July 23, 2001) (*Remand Order*) (remanding for further consideration of service provider changes and service changes in light of the standards set in the Commission's decisions). See 47 C.F.R. § 1.113 (permitting actions taken on delegated authority to be reconsidered within 30 days of the public notice of the action).

<sup>2</sup> *Remand Order*, paras. 8-9.

<sup>3</sup> *Id.*, para. 8; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rick Barber, Mercer County Area Vocational-Technical School, dated May 12, 2000 (Administrator's Decision on Appeal).

our part that parties may file untimely appeals from service change request denials. We have in the past and will continue to strictly enforce the 30-day filing deadlines established in Commission regulations for appeals filed with SLD and the Commission.<sup>4</sup> However, we now make clear that we vacated SLD's decision to deny Mercer County's filing as an untimely appeal because the pleading that Mercer County filed with SLD was not, in fact, an appeal and was thus not subject to the appeal limitations period.

3. Mercer County filed the pleading at issue here with SLD on May 11, 2000, labeling it a "Letter of Appeal," seeking appeal from a Funding Commitment Decision Letter issued May 8, 2000.<sup>5</sup> However, the substance of the Letter of Appeal was not an appeal from a funding decision but simply a request to "purchase . . . substitution equipment . . . as a substitute for the equipment we originally applied for," that is, a standard post-funding service substitution request.<sup>6</sup> Service substitution requests filed post-funding commitment, like post-funding commitment SPIN-change requests, are not considered appeals from the Funding Commitment Decision Letter, or indeed, appeals of any kind. Thus, a party that wishes to file such a request with SLD is not restricted to the 30 day appeal period following the issuance of the Funding Commitment Decision Letter to do so.<sup>7</sup>

4. Because the substance of the document filed by Mercer County is plainly a service substitution request, SLD should have construed it as a service substitution request notwithstanding how the applicant captioned the pleading. As such, SLD should have reviewed the service substitution request on its merits. The Division's reversal of SLD's decision and remanding for further consideration of the request was therefore appropriate.<sup>8</sup>

---

<sup>4</sup> 47 C.F.R. § 54.720; see, e.g., *Request for Review by North Babylon Union Free School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-160553, CC Dockets No. 96-45 and 97-21, Order, DA 01-1165 (Act. Pol. Div. rel. May 9, 2001).

<sup>5</sup> Letter from Rick Barber, Mercer County Area Vocational-Technical School, to Schools and Libraries Corporation, Universal Service Administrative Company, filed May 11, 2000 (Letter of Appeal).

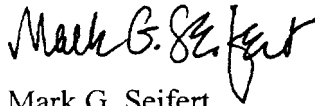
<sup>6</sup> *Id.* at 1.

<sup>7</sup> For further information concerning the procedures and restrictions applicable filing to SPIN-change and service-change requests, see SLD Web Site, <<http://www.sl.universalservice.org/reference/SpinChangeYr4.asp#8>> (SPIN-change requests); <<http://www.sl.universalservice.org/reference/ServiceSub.asp>> (service substitution requests).

<sup>8</sup> See *Request for Review of Decision of the Universal Service Administrator by Los Angeles Unified School District, Los Angeles, California*, Order, File No. SLD-198056, CC Dockets No. 96-45, 97-21, DA 01-387 (rel. February 14, 2001) (*LA Unified Order*) (establishing standard for service substitution requests).

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.113 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.113, 54.722(a), that the Request for Review filed by Mercer County Area Vocational – Technical School, Mercer, Pennsylvania, on June 1, 2000 is GRANTED for the reasons discussed herein, and REMANDED to the Schools and Libraries Division for further consideration consisted with this decision.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert". The signature is fluid and cursive, with the last name "Seifert" being more prominent.

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau